IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CITIZENS UNITED, 1006 Pennsylvania Avenue, S.E. Washington, DC 20003, Plaintiff, v. UNITED STATES DEPARTMENT OF LABOR, 200 Constitution Avenue, N.W. Washington, DC 20210, Defendant.	)	Civil Action No. 19-310

COMPLAINT

Plaintiff Citizens United brings this action against Defendant the United States Department of Labor ("Labor Department") to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"). As grounds therefor, Plaintiff alleges the following:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

2. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

PARTIES

3. Plaintiff Citizens United is a Virginia non-stock corporation with its principal place of business in Washington, D.C. Citizens United is organized and operated as a non-profit membership organization that is exempt from federal income taxes under Section 501(c)(4) of the U.S. Internal Revenue Code. Citizens United seeks to promote social welfare through

informing and educating the public with respect to conservative ideas and positions on issues, including constitutional principles, national defense, the free enterprise system, belief in God, and the family as the basic unit of society. In furtherance of those ends, Citizens United produces and distributes information and documentary films on matters of public importance. Citizens United regularly requests access to the public records of federal government agencies, entities, and offices, to disseminate its findings to the public through its documentary films and publications.

4. Defendant, the United States Department of Labor, is an agency of the United States Government and is headquartered at 200 Constitution Avenue, N.W., Washington, D.C. 20210. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. Citizens United routinely submits FOIA requests, and this matter concerns one FOIA request submitted to Defendant on March 3, 2017, which Defendant has failed to process.

6. On March 3, 2017, Citizens United submitted a FOIA request by email to foiarequests@dol.gov to Defendant. *See* Exhibit A. The request reasonably described the records sought as:

> [A]ll email communications sent to or received by, or containing, the email addresses "tomperez1@verizon.net" or "perezte@dol.gov", which have been publicly reported to be associated with former Labor Secretary Tom Perez.

The time period covered by the FOIA request was July 1, 2013 to January 19, 2017.

7. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant is required to respond to Citizens United's FOIA requests within 20 working days of each request.

8. The Labor Department acknowledged receipt of the FOIA request on March 17, 2017. *See* Exhibit B. Defendant's acknowledgment of Citizens United's FOIA request sought additional contact information from Citizens United.

9. On March 30, 2017, Defendant emailed Citizens United further acknowledging the FOIA request and assigning it tracking number 827341. *See* Exhibit C.

10. On February 1, 2019, Defendant sent a follow-up email noting that it is "continuing to process" the FOIA request, and asking Plaintiff to confirm that it is still interested in the records. *See* Exhibit D.

11. As of the date of this Complaint, Defendant has failed to provide a substantive response to the FOIA request or to produce any responsive records, nor has it asserted any claims that responsive records are exempt from production. Such failure is in clear violation of both the letter and the spirit of FOIA.

12. Since Defendant has failed to comply with the time limit set forth in 5 U.S.C. § 552(a)(6)(A)(i), Citizens United is deemed to have fully exhausted any and all administrative remedies with respect to its FOIA requests. *See* 5 U.S.C. § 552(a)(6)(C).

CAUSE OF ACTION
(Violation of FOIA, 5 U.S.C. § 552)

13. Plaintiff realleges paragraphs 1 through 12 as though fully set forth herein.

14. Defendant has failed to provide any records and has failed to claim any exemptions regarding Citizens United's March 3, 2017 FOIA request for copies of all email communications which contain the specified email addresses as stated in the request within the statutory time limit.

15. Citizens United is being irreparably harmed by reason of Defendant's unlawful withholding of requested records, and Citizens United will continue to be irreparably harmed unless Defendant is compelled to conform its conduct to the requirements of the law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Citizens United requests that the Court grant all appropriate relief for the violations of FOIA alleged above, including:

a. An order and judgment requiring the Defendant to conduct a search for any and all records responsive to Citizens United's FOIA request and to demonstrate that it employed search methods reasonably likely to lead to the discovery of all records responsive to Citizens United's request;

b. An order and judgment requiring the Defendant to produce, by a date certain, any and all non-exempt records responsive to Citizens United's FOIA request and a *Vaughn* index of any responsive records withheld under claim of exemption;

c. An order and judgment permanently enjoining Defendant from continuing to withhold any and all non-exempt records in this case that are responsive to Citizens United's FOIA request;

d. Attorneys' fees and costs to Plaintiff pursuant to any applicable statute or authority, including 5 U.S.C. § 552(a)(4)(E); and

e. Any other relief that this Court in its discretion deems just and proper.

/s/ Jeremiah L. Morgan
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Dated: February 7, 2019